

REMARKS

Claims 65-85 were pending upon entry of Amendment D. In this Amendment E, claims 65, 67, 72, 78, 80 and 85 are amended, claim 81 is canceled, and claim 86 is added. The pending claims are now claims 65-80 and 82-86. No new matter has been added.

The Examiner indicated in the Advisory Action mailed April 1, 2009 that the rejection of 65-84 under 35 U.S.C. § 101 has been withdrawn.

The claim amendments presented here render moot the previous rejection under 35 U.S.C. § 112, first paragraph, and that rejection should now also be withdrawn.

Claims 65-85 were rejected under 35 U.S.C. § 103(a) as unpatentable over DeLuca *et al* (DeLuca) in view of Jacobs.

The crux of the Examiner's position in the most recent Office Action and Advisory Action appears to Applicants to have been that DeLuca teaches each of the then-pending limitations of claim 65, but without mention or suggestion of providing video content and advertisements. The Examiner further relied on Jacobs to provide the video programming content and advertisements undisputedly missing from DeLuca. Both references have been previously described at length on the record by the Examiner and by Applicants.

The claims, including claim 65, do not read on the combination of DeLuca and Jacobs.

Claim 65 as amended recites:

A method for providing interactive advertising to an access device, the method comprising:
receiving video programming content and advertisements;
displaying to an access device of a viewer at least a portion of the received video programming content;
automatically displaying to the access device of the viewer at least one of the received advertisements in addition to the displayed video programming content;

receiving after a first amount of time a request from the viewer to stop displaying the displayed advertisement;
responsive to the received request, stopping the display of the advertisement; and
awarding value to the viewer, the value prorated according to an amount of the advertisement displayed during the first amount of time.

As previously noted, by Applicants, DeLuca does not discuss video programming content, and does not disclose automatically displaying received advertisements in addition to video programming content. In addition, DeLuca does not “award[] value to the viewer, the value prorated according to an amount of the advertisement displayed during the first amount of time,” as claimed. As illustrated in Fig. 9 of DeLuca at step 210, and described at col. 11, lines 18-25, money is deposited into a user’s account if it is the first time the ad or survey in question has been read, and if the ad has been displayed for a pre-selected period. Nothing in DeLuca discloses or suggests prorating awarded value based on an amount of the advertisement displayed to the user, as claimed.

Jacobs similarly does not award value to a viewer prorated according to an amount of an advertisement that is displayed. Claim 65 is therefore patentable over the combination of DeLuca and Jacobs. Claims 78 and 85 are patentable over the combination of references for at least the same reasons as claim 65, as are independent claims 66-77, 79-80, and 82-84.

New claim 86 is also patentable over the DeLuca/Jacobs combination. As previously noted, DeLuca does not provide video programming content. In the Advisory Action, the Examiner takes the position that Jacobs discloses providing video programming content because in paragraph [0032], the term “E-Mail Messages” is described to include “video files”. Even if the Examiner’s argument is accepted, however, Jacobs does not disclose displaying advertisements interspersed with video programming, as claimed. To the contrary, as illustrated in Fig. 3A of Jacobs, and described further at paragraph [0066], advertisements are displaying “integrated into the main screen,” and not interspersed with video programming content, as claimed. Accordingly, claim 86 is also patentable over the cited references.

If any matters remain outstanding prior to allowance of the claims, the Examiner is invited to contact the undersigned attorney at (415) 875-2358 or via e-mail at dbrownstone@fenwick.com. Applicants acknowledge that a copy of any electronic mail communications will be made of record in the application file per MPEP § 502.03.

Respectfully submitted,
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